

Message Text

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46

ACTION EUR-12

INFO OCT-01 ISO-00 EURE-00 SSO-00 NSCE-00 SEC-01 SS-15

NSC-05 SP-02 L-03 H-02 INRE-00 CIAE-00 INR-07 NSAE-00

EB-07 /055 W

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O 121408Z JUN 75

FM AMEMBASSY BERN

TO SECSTATE WASHDC IMMEDIATE 813

LIMITED OFFICIAL USE BERN 2428

E.O. 11652: N/A

TAGS: CFED, SZ (SEC'S GENERAL REFRACTORIES CASE)

SUBJECT: JUDICIAL ASSISTANCE: SERVICE OF SEC COMPLAINTS IN CONNECTION
WITH THE GENERAL REFRACTORIES CASE

REF: A) FLATIN (EUR/CE) TELECON TO EMBASSY, JUNE 11, 1975;
B) BERN 2405; C) STATE 135293; D) BERN A-78

1. REF D DESCRIBED IN DETAIL GOS PROTEST RE: ATTEMPT BY
SEC TO SERVE A SUBPOENA BY MAIL ON THE PROGRESS FOUNDATION,
LUGANO-BESSO, SWITZERLAND. AT THAT TIME THE EMBASSY WAS
SPECIFICALLY REQUESTED BY THE FDJP TO INFORM THE SEC OF THE
FACT THAT SERVICE OF PROCESS IS CONSIDERED IN SWITZERLAND
TO BE AN OFFICIAL GOVERNMENTAL ACT WHOSE EXECUTION
IS RESERVED EXCLUSIVELY TO LOCAL AUTHORITIES AND THAT THE
GOS IS OPPOSED TO ALL DIRECT NOTIFICATION THROUGH POSTAL
CHANNELS OF JUDICIAL ACTIONS ORIGINATING IN FOREIGN COUNTRIES.
THE EMBASSY ASSUMED THAT THE SEC RECEIVED REF D AND THAT NO
ATTEMPT WOULD BE MADE TO SERVE A SUMMONS ON A PERSON OR ENTITY
IN SWITZERLAND BY MAIL. REF A INDICATED POSSIBILITY THAT SEC
MAY SEND REGISTERED LETTERS CONTAINING COMPLAINTS IN GENERAL
REFRACTORIES CASE TO PERSONS AND ENTITIES LISTED REF C. IN
ADDITION TO QUESTIONING WHETHER TRANSMISSION OF SUCH
LETTERS WOULD CONSTITUTE VALID SERVICE OF PROCESS SINCE
TRANSMISSION OF LETTERS WOULD BE ILLEGAL IN SWITZERLAND,
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EMBASSY STRONGLY INSISTS THAT SUCH LETTERS NOT BE SENT

TO PERSONS OR ENTITIES IN SWITZERLAND BECAUSE OF THE
HARMFUL EFFECTS SUCH TRANSMISSION WOULD HAVE ON OUR
JUDICIAL RELATIONS WITH SWITZERLAND. THE EMBASSY HAS
DISCUSSED THE SEC'S DESIRE TO EFFECT SERVICE OF
COMPLAINT IN THIS IMPORTANT CASE WITH FDJP OFFICIAL (REF B)
WHO PROPOSED PROCEDURE WHICH WOULD BE IN ACCORD WITH SWISS
LAW. TO CIRCUMVENT THIS PROCEDURE, AFTER SPECIFICALLY
DISCUSSING IT WITH FDJP, WOULD BE CONSIDERED BY FDJP
AS US DISREGARD AND DISDAIN FOR SWISS LAWS. SUCH A BELIEF
WOULD ADVERSELY AFFECT PRESENT AND FUTURE REQUESTS FOR
JUDICIAL ASSISTANCE WHICH MUST BE CHanneLED THROUGH FDJP.
IN ADDITION, IF ATTEMPT BY SEC TO ILLEGALLY SERVE COMPLAINTS
BECAME PUBLICALLY KNOWN, IT COULD JEOPARDIZE FINAL STEPS
OF RATIFICATION OF JUDICIAL ASSISTANCE TREATY.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 12 JUN 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ElyME
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975BERN02428
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750205-0311
From: BERN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750654/aaaabwvs.tel
Line Count: 76
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EUR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
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Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 75 JUNE 11, 75 1975
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Review Authority: ElyME
Review Comment: n/a
Review Content Flags:
Review Date: 18 JUN 2003
Review Event:
Review Exemptions: n/a
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To: STATE
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